

Eric A. Liepins
ERIC A. LIEPINS, P.C.
12770 Coit Road
Suite 850
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PROPOSED ATTORNEY FOR DEBTOR

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE	§	
	§	
SPARTAN GROUP HOLDINGS, LLC et. al.,	§	
	§	Case no.23-42384-11
	§	
	§	
	§	CHAPTER 11
DEBTOR	§	

**LIMITED OBJECTION TO DEBTORS' EMERGENCY MOTION FOR ENTRY OF
ORDER FACILITATING SECTIONS 362(A) AND 542(A) OF THE BANKRUPTCY
CODE**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

COMES NOW, Bob Moore Construction, Inc., ("Moore") creditor and party in interest and files this its Limited Objection to Debtors' Emergency Motion for Entry of Order Facilitating Sections 362(a) and 542(a) of the Bankruptcy Code ("Motion") and would show the Court the following:

1. The Debtor filed these voluntary Chapter 11 Petitions on December 13, 2023.
2. The Debtor filed the Motion on December 18, 2023, and the Court has set a hearing for December 21, 2023 on the Motion.
3. Moore is a general contractor who currently has construction contracts with the

Debtor.

4. The Motion asserts that the Debtor has pre-petition receivables of more than \$6.6 million, and some of those receivables may be asserted to be owed to Debtor by Moore.

5. Moore has received demands from Wade Advance and BMO Bank to hold amounts payable to Debtor. Copy of those letters are attached as Exhibits A and B.

6. While Moore has no objection to making payment directly to Debtor for amounts due the Debtor, the Order presented to the Court requires Moore to make all payments to Debtor without providing for payments to the vendors and sub contractors of Debtor would have lien rights against the projects Debtor is seeking payment on. The amounts which may be due to Debtor are subject to the requirements of the Texas Trust Fund Act. Tex Prop. Code §162.001 et seq.

7. Moore would request any Order from this Court on the Motion, provide that Moore pay directly all suppliers and subcontractor identified by Debtor in its draw request prior to paying funds to the Debtor.

8. Additionally, the Debtor has provided Moore with an affidavit that all suppliers and subcontractors were paid when Debtor received its August 2023 draw payment, when in fact the affidavit was false and Moore failed to make payment to at least the following vendors, Advanced Geodetic Survey \$3,319.93, Buyer's Safety \$512.97, Colony Hardware Corp. \$7,752.39, Ellis Construction \$4,496.86, Performance Equipment \$278.74 and United Rental \$3,869.94 which may now lien current project. A copy of affidavit is attached as Exhibit C.

9. Moore requests it be allowed to recoup monies paid in reliance of Debtor's affidavit from any future draw requests.

WHEREFORE, PREMISES CONSIDERED, the Debtor would request this Court request

Moore be allowed to make payments directly from any amounts due Debtors to all subcontractors and/or materialmen identified on any draw request submitted to Moore prior to any payment to Debtor and for such other and further relief as the Debtor may show itself justly entitled.

Respectfully submitted,

Eric A. Liepins
Eric A. Liepins, P.C.
12770 Coit Road
Suite 850
Dallas, Texas 75251
(972) 991-5591
(972) 991-5788 - telecopier

By: /s/ Eric Liepins
Eric A. Liepins, SBN 12338110

PROPOSED ATTORNEY FOR DEBTOR

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Motion was sent via e-mail to the Debtor, through their counsel of record, Davor Rukavina at drukavina@munsch.com on the 20th day of December 2023.

/s/ Eric Liepins
Eric A. Liepins

Quarles

One Renaissance Square
Two North Central Avenue
Suite 600
Phoenix, Arizona 85004-2322
602-229-5200
Fax 602-229-5690
www.quarles.com

Jason D. Curry
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Attorneys at Law in
Chicago
Denver
Indianapolis
Madison
Milwaukee
Minneapolis
Naples
Phoenix
San Diego
Tampa
Tucson
Washington, D.C.

November 10, 2023

VIA OVERNIGHT DELIVERY & EMAIL

Bob Moore Construction
3611 William D Tate Ave
Grapevine, TX 76051-7103
mduvall@generalcontractors.com
kwhitesell@generalcontractors.com

Bob Moore Construction
c/o Ed T McGuire – Resident Agent
3611 William D Tate Ave
Grapevine, TX 76051-7103

UCC LIEN NOTICE PURSUANT TO UCC § 9-406

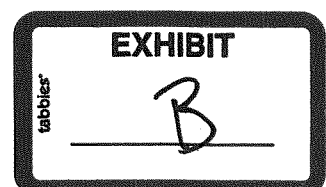
RE: ACCOUNTS OWED TO

- SPARTAN GROUP HOLDINGS LLC;
- SPARTAN REINFORCING, LLC;
- SPARTAN FABRICATION SERVICES LLC;
- SPARTAN METALS DISTRIBUTION LLC;
- SPARTAN ENGINEERING SERVICES LLC;
- SPARTAN CONCRETE CONSTRUCTION, LLC;
- SPARTAN EQUIPMENT LEASING LLC;
- SPARTAN VALLEY CHILI RD LLC
(COLLECTIVELY, THE “SPARTAN ENTITIES”).

To Whom It May Concern:

This firm represents BMO BANK N.A., f/k/a BMO Harris Bank N.A., a national banking institution (“**Senior Lender**”), which is the holder of senior liens and security interests in, among other collateral, all accounts receivable owned or generated by the above-referenced Spartan Entities (collectively, the “**Accounts Receivable**”). The Accounts Receivable serve as security for loans Senior Lender extended to the Spartan Entities. Senior Lender’s liens and security interests in the Accounts Receivable are reflected in, among other documents and instruments, that certain *Loan and Security Agreement* dated March 25, 2022, as amended by that certain *First Amendment to Loan and Security Agreement* dated as of September 15, 2022, and the *Master Loan and Security Agreement* dated as of April 7, 2022, by and among Senior Lender and the Spartan Entities (collectively and as may be amended, modified, restated, or replaced, the “**Senior Security**”).

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Agreements)¹. Copies of the Senior Security Agreements are enclosed herewith for your reference. The filing of the enclosed UCC-1 Filing Statements properly perfected the Senior Lender's senior security interests in, among other collateral, the Accounts Receivable.

The Spartan Entities have defaulted on their obligations to Senior Lender under the Senior Loan Documents. The balance currently owed under by the Spartan Entities to Senior Lender exceeds **\$16,063,001.88**, plus all accrued and accruing interest, fees, costs, and other amounts chargeable under the Loan Documents and applicable law. As a result of Spartan Entities' default, and pursuant to the Senior Security Agreements, Senior Lender is entitled to demand and collect the Accounts Receivable by directing the Spartan Entities' account debtors to make payments directly to Senior Lender. Senior Lender has been informed that you are such an account debtor and that you owe one or more of the Spartan Entities (the **"Balance Due"**).

In accordance with Loan Documents, Tex. Bus. & Com. Code Ann. § 9.406 (West), Senior Lender hereby demands that you immediately pay the full Balance Due to Senior Lender via check or other readily available funds in full satisfaction of the Balance Due owing to the Spartan Entities. Checks should be made payable to BMO Bank N.A., and should be mailed to:

**BMO Bank N.A.
c/o James Thorall
500 Capitol Mall
Suite 1200
Sacramento, CA 95814**

Please be advised that failure to follow this direction or your payment of the Balance Due or any portion thereof to any other party, including one or more of the Spartan Entities, may subject you to direct liability to Senior Lender.

Prior Demand by Junior Lienholder

Senior Lender understands that you may have received a similar letter from one or more alleged junior lienholders or alleged "account purchasers" (each a **"Junior Interest Holder"**), directing you to make payments to said Junior Interest Holder. Please do not remit any portion of the Balance Due to any Junior Interest Holder. Such remittance is a violation of Senior Lender's rights and may subject you to further liability.

We understand that your receipt of multiple conflict letters from creditors of the Spartan Entities may have created confusion. However, there is no legitimate dispute that Senior Lender's interests in the Accounts Receivable take priority over that of any Junior Interest Holder.

¹ All documents and instruments evidencing and securing Senior Lender's loans to the Spartan Entities, including the Senior Security Agreements, will be referred to herein collectively as the **"Senior Loan Documents"**.

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Nothing contained in this letter is a waiver or modification of any right, power, or remedy of Senior Lender under applicable law, nor a waiver or modification of any agreement to which Senior Lender is a party, and nothing in this letter will or shall be construed as any such waiver, modification, or agreement. Senior Lender hereby reserves, and does not waive, all of its rights and remedies, including with respect to the foregoing Accounts Receivable and Loan Documents.

If you have any questions, please do not hesitate to reach out to the undersigned. Thank you for your prompt attention to this matter.

Regards,

A handwritten signature in black ink, appearing to read "J. Curry", is written over a horizontal line.

Jason Curry

QUARLES & BRADY LLP

encl. Senior Security Agreements
UCC-1 Financing Statements

WAVE ADVANCE INC

200 South Andrews Ave, Suite 504
Fort Lauderdale, FL 33301
Tel (315)-909-5995
Email: jason@waveadvancegrp.com

September 18, 2023

BY MAIL TO:

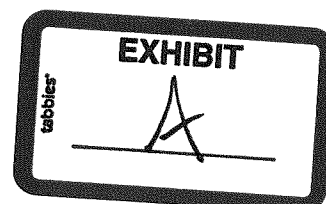
BOB MOORE CONSTRUCTION, INC.
ATTN: ED T MCGUIRE
3611 WILLIAM D. TATE AVE.
GRAPEVINE, TX 76051

**UCC LIEN NOTICE AND NOTICE OF POWER OF
ATTORNEY GRANTED BY SPARTAN GROUP
HOLDINGS LLC
TO WAVE ADVANCE INC GRANTING WAVE ADVANCE
INC POWER OF ATTORNEY OVER SPARTAN GROUP
HOLDINGS LLC**

Debtor 1: Spartan Group Holdings LLC
6021 Connection Dr, Suite 200
Irving, Tx 75039
Ein: 86-2535865

Debtor 2: Spartan Group Holdings LLC
15840 Fm 529 Rd Ste 303
Houston, Tx 77095
Ein: 86-2535865

Debtor 3: Spartan Reinforcing LLC
15840 Fm 529 Rd Ste 303
Houston, Tx 77095
Ein: 81-4896811



- Debtor 4: Spartan Concrete Construction LLC
15840 Fm 529 Rd Ste 303
Houston, Tx 77095
Ein: 87-4275378
- Debtor 5: Spartan Employee Leasing LLC
1999 Bryan St Ste 900
Dallas, Tx 75201
- Debtor 6: Spartan Engineering Services LLC
4408 Saddlewood Dr
Flower Mound, Tx 75028
Ein: 86-3019172
- Debtor 7: Spartan Equipment Leasing, LLC
4408 Saddlewood Dr
Flower Mound, Tx 75028
- Debtor 8: Spartan Fabrication Services LLC
4408 Saddlewood Dr
Flower Mound, Tx 75028
Ein: 86-2981692
- Debtor 9: Spartan Metals Distribution LLC
4408 Saddlewood Dr
Flower Mound, Tx 75028
Ein: 86-3723800
- Debtor 10: Spartan Innovation & Technology, LLC
6021 Connection Dr
Irving, Tx 75039
- Debtor 11: Spartan Valley Chili Road, LLC
1885 Saint James Pl Fl 15
Houston, Tx 77056
- Debtor 12: Angelic Skin Care LLC
2221 Bershire Dr
Flower Mound, Tx 75028
- Debtor 13: Cancom Services LLC
6021 Connection Dr
Irving, Tx 75039

Debtor 14: Nak Pyramid Group LLC
747 E San Antonio Ave Ste 203
El Paso, Tx 79901

Debtor 15: Quickpay.Legal, L. L. C.
5700 Granite Pkwy Ste 200
Plano, Tx 75024

Debtor 16: Ragamuffin Business Management Services, LLC
192 Desiree Ln
Highland Vlg, Tx 75077

Secured Party: **WAVE ADVANCE INC**
200 South Andrews Ave, Suite 504
Fort Lauderdale, FL 33301

Balance due to Wave Advance Inc: \$1,633,332.34

To Whom it May Concern:

SPARTAN GROUP HOLDINGS LLC (the “Merchant”) entered into an agreement with Wave Advance Inc (the “Agreement”), dated August 21, 2023, a copy of which is enclosed herewith. Under the Agreement, Wave was to receive a percentage of all of the Merchant’s receipts, and Wave was authorized to file a UCC-1 financing statement to perfect its security interest in the Merchant’s receipts, which Wave did on September 13, 2023. This puts the public on notice of Wave’s rights to the Merchant’s assets as a secured party. A copy of the UCC-1 financing statement is enclosed herewith. Under the Agreement, in the event of the Merchant’s default, Wave was irrevocably appointed as the Merchant’s agent and attorney-in fact with full authority to take any action or execute any instrument or document to settle all obligations due to Wave from the Merchant under the Agreement, including collecting money due to the Merchant. Wave held the Merchant in default of the Agreement as of September 13, 2023, and the Merchant currently owes Wave **\$1,633,332.34** under the Agreement.

It has come to our attention that your business has been handling funds belonging to the Merchant. Your company is hereby given the following notice under UCC § 9-406, which states in relevant part that:

[A]n account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

Your business is required to direct all funds that would otherwise be due to the Merchant to Wave Advance until the sum of \$1,633,332.34 is received. Payment must be made by check to the order of "Wave Advance Inc" indicating in the memo section it is for "Wave v. Spartan" and received in this office at 20200 West Dixie Highway Suite 803, Miami, FL 33180 within 7 days after the date of this letter. Your business' failure to do so will result in a lawsuit being filed to recover all damages, interest, costs of suit, and legal fees to the extent permitted by law. I trust litigation will not be necessary as it is costly and time consuming.

Very truly yours,

Wave Advance Inc Team.

Enclosures as stated

UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Project: **RAS Corsicana**
Job No. **70263**

The signer of this document has been paid and has received a progress payment in the sum of **\$884,072.12** for all labor, services, equipment, or materials furnished to the property or to **Bob Moore Construction, Inc.** (person with whom signer contracted) on the property of **SI Corsicana OOZB #8 LLC** (owner) located at **Corsicana** (location) to the following extent: **Concrete thru 08/31/23** (job description). The signer therefore waives and releases any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the above referenced project to the following extent:

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to **Bob Moore Construction, Inc.** (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

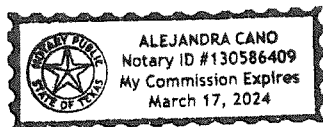
Date 09/14/2023

Spartan Concrete Construction, LLC (Company name)

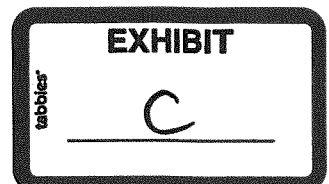
By  (Signature)

Jeremy Keller, Senior Vice President (Title)

SUBSCRIBED AND SWORN TO BEFORE ME, the undersigned, a Notary Public on this 14th day of September, 2023 to certify which witness by hand and seal of office.




Notary Public, State of Texas



Lien Waiver History

Date	Company	Event
09/14/23	Bob Moore Construction, Inc.	Stephanie Chambers approved Lien Waiver 'Bob Moore Unconditional Waiver' for Application For Payment #1 for Spartan Concrete Construction, LLC
09/14/23	Spartan Concrete Construction, LLC	Alejandra Mitchell uploaded Lien Waiver 'Bob Moore Unconditional Waiver' for Application For Payment #1 for Spartan Concrete Construction, LLC
09/14/23	Bob Moore Construction, Inc.	Stephanie Chambers sent Lien Waiver 'Bob Moore Unconditional Waiver' for Application For Payment #1 for Spartan Concrete Construction, LLC